necessary for the public good." Rights of property, like all other social and conventional rights, are subject to such reasonable limitations, restraints, and regulations, established by law, as the legislature may think necessary and expedient. *Commonwealth v. Alger,* 7 Cush. (Mass.) 53; *Deems v. Mayor,* 80 Md. 164; *Barbier v. Connolly,* 113 U. S. 27. Quarantine ordinances and ordinances for the segregation of prostitutes have been held constitutional. *Smith v. St. Louis & S. W. R. R. Co.,* 181 U. S. 248; *L'Hote v. New Orleans,* 177 U. S. 587. Legislation preventing intermarriage between the two races, and providing for separate compartments in railroad coaches, and establishing separate schools for whites and blacks, has been universally held valid. *State v. Gibson,* 36 Ind. 389; *Plessey v. Ferguson,* 163 U. S. 537; *Berea College v. Commonwealth,* 123 Ky. 209. An ordinance similar to the one in the principal case was held valid in the case of *Ashland v. Coleman* in the Circuit Court of Hanover County, Va. In the following cases segregation ordinances were declared unconstitutional, but the ordinances passed upon are distinguishable from the one in the principal case. *State v. Gurry,* 121 Md. 534; *State v. Darnell,* 166 N. C. 300; *Carey v. Atlanta,* 84 S. E. (Ga.) 456.

S. H. S.

DAMAGES—PERMANENT OR TEMPORARY INJURIES—FLOODED LAND—MEASURE OF RECOVERY.—THOMPSON V. ILLINOIS CENTRAL R. CO., 153 N. W. (IOWA) 174.—In case of an overflow of land due to the faulty location of a railroad bridge, *held,* that damages should have been confined to the lowlands physically sustaining the injury and not extended to the depreciation in value of the farm as a whole.

It is well settled in the case of permanent structures that the measure of damages is the difference between the value of the land before and after the injury. *Sanitary Dist. of Chicago v. Herkert,* 108 Ill. App. 582. Whether a particular injury is permanent or temporary is a much controverted point. See *Flouring Mill Co. v. Lake Shore R. Co.,* 160 Mich. 330. Sometimes the question is made to depend upon the intention with which the structure was erected (*Strange v. Railroad,* 245 Ill. 246), or the right to be maintained. *Railroad v. Horan,* 131 Ill. 288; *Strout v. Railroad,* 157 Ky. 1. A permanent structure is defined sometimes as one of such a character that unless interfered with by the hand of man it will continue indefinitely. *Gartner v. Railroad,* 71 Neb. 444. Again, the question has been determined with reference to the ease or difficulty of removal. *Baker v. Allen,* 66 Ark. 271. Under any of these tests the structure in the principal case should be regarded as permanent. Where the convenience and salability of an entire farm are permanently affected by the flooding of a part, the damage to the entire farm should be recovered. *Hastings v. Railroad,* 148 Iowa 390; *Parrott v. Railroad,* 127 Iowa 424; *Reichert v. Bachenstross,* 71 Hun (N. Y.) 546; *Rourke v. Mass. Electric Co.,* 177 Mass. 46. On the other hand, the damage has been regarded as temporary owing to the temporary character of the immediate injury, notwithstanding the liability of indefinite recurrence thereof on account of the permanency of the structure. *Jones v. Sanitary Dist. of Chicago,* 252 Ill. 591; *Sloss-Sheffield Steel & Iron Co. v. Mitchell,* 61 So. (Ala.) 934. In viewing the authorities one is led to form the opinion that the courts in assessing damages consider the damage to the

whole tract rather than the damage to that part physically sustaining the injury alone. This is contrary to the holding of the majority of the judges in the principal case.

J. McD.

DAMAGES—PERSONAL INJURIES—LOSS OF PROFITS.—MAHONEY V. BOSTON ELEVATED RY., 108 N. E. (MASS.) 1033.—In an action for personal injuries, *held,* that one who is engaged in a commercial activity involving the employment of others, may not show in evidence a diminution of profits coincident with his inability to attend to his affairs.

The consideration of profits lost as an element of damage resolves itself into a question of certainty of proof. *Griffin v. Colver,* 16 N. Y. 489. First, the fact of loss may be purely conjectural. *Martin v. Deetz,* 102 Cal. 55 (new business—frustrated attempt at incorporation). Second, data may be insufficient to warrant the inference of a causal connection between the injury and the loss. *Bierbach v. Goodyear Rubber Co.,* 54 Wis. 208 (nothing to prevent the employment of a substitute during the disability); *Wallace v. Penn. Ry. Co.,* 195 Pa. 127 (injury to boarding-house keeper, loss of custom). Third, the extent of the loss may be uncertain. Uncertainty of either of the first two species is decisive against the admissibility of proffered evidence. Cases *supra.* It is sufficient, however, to have a substantial basis for a probable opinion. *Hetzel v. Ry.,* 169 U. S. 26 (prospective profits from use of land injured); *Hanover Ry. Co. v. Coyle,* 53 Pa. 396 (injury to peddler, purely personal activity); *Walter v. Post,* 4 Abb. Pr. (N. Y.) 382 (injury to place of business). In general, ordinary profits incident to a regular established business are not too speculative. *Goebel v. Hough,* 26 Minn. 252. By the better view, in actions of tort at least, mere uncertainty as to the quantum of damage will not exclude an item from consideration. *Allison v. Chandler,* 11 Mich. 542; *Gildersleeve v. Overstolz,* 90 Mo. App. 518. *Contra, Coyle v. Ry. Co.,* 18 Pa. Super. Ct. 235. Courts have accordingly sometimes admitted the evidence, even in the case of a personal injury to one engaged in a commercial occupation. *Terre Haute v. Hudmut,* 112 Ind. 542; *Ry. Co. v. Scheinkoenig,* 62 Kan. 57. The great weight of authority, however, supports the principal case in rigidly drawing the line between pursuits consisting solely or substantially of personal activity, and commercial occupations involving the employment of labor and capital. *Lombardi v. St. Ry. Co.,* 124 Cal. 311; *Masterton v. Mt. Vernon,* 58 N. Y. 391; *Cincinnati v. Evans,* 5 Ohio St. 594. The infinite variations of fact intermediate between the position of the mere investor of capital and that of one engaged in a purely personal activity demand a more elastic and open-minded treatment, under the liberal doctrine of *Allison v. Chandler, supra.*

C. R. W.

EVIDENCE—RELEVANCY—VALUE OF PROPERTY.—JONESBORO L. C. AND E. RY. CO. V. ASHABRANNER, 174 S. W. (ARK.) 548.—*Held,* that a statement of an owner of land that she had been offered a specified sum per acre for it was not competent as evidence of value.

According to the weight of authority, testimony of an offer to purchase land is inadmissible to show its value. *Minn. Ry. Transfer Co. v. Gluek,*